

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-ED4

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BRIAN MORRIS, JAMES HARRIS,
GENTILE TABOR, and MARCUS
WASHINGTON,

CLERK
U.S. DISTRICT COURT

Plaintiffs,

v.

VILLAGE OF ROBBINS,
a municipality; ROBBINS CHIEF
OF POLICE JOHNNY HOLMES, in
his official capacity and his
individual capacity; ROBBINS
POLICE OFFICER CARL SCOTT,
Star No. 358, in his official
capacity and his individual
capacity; ROBBINS POLICE
OFFICER DION KIMBLE
Star No. 323, in his official
capacity and his individual
capacity; ROBBINS POLICE
OFFICER ANTHONY HOSEY, Star
No. 311, in his official
capacity and his individual
capacity; ROBBINS
POLICE OFFICER TYRUS LESTER,
Star No. 303, in his
official capacity and his
individual capacity,

No.

01C 6799

JUDGE MANNING

DOCKETED

AUG 31 2001

MAGISTRATE JUDGE LEVIN

Defendants.

COMPLAINT

The Plaintiffs Brian Morris, James Harris, Gentile Tabor, and Marcus Washington, by and through their attorneys, Holzman & Levinsohn, complain of the Defendants, Village of Robbins, a municipality; Robbins Chief of Police Johnny Holmes, Robbins Police Officer Carl Scott, Star No. 358, in his official capacity

and his individual capacity; Robbins Police Officer Dion Kimble, Star No. 323, in his official capacity and his individual capacity; Robins Police Officer Anthony Hosey, Star No. 311 in his official capacity and his individual capacity; Robbins Police Officer Tyrus Lester, Star No. 303, in his official capacity and his individual capacity, as follows:

JURISDICTION AND VENUE

1. That this is a civil action for damages to redress deprivations under color of law, rights, privileges and immunities secured by the 4th, and 14th Amendments to the United States Constitution, and Title 42 U.S.C. Sections 1983 and 1988. That all acts complained of took place in the Northern District of Illinois, Eastern Division. The Court has jurisdiction of this action under Title 28 U.S.C. Sections 1331 and 1343.

PARTIES

2. The Plaintiffs Brian Morris, James Harris, Gentile Tabor, and Marcus Washington are natural persons.

3. The Defendant Village of Robbins, is a municipality organized under Illinois law and located in Cook County, Illinois.

4. Defendant Johnny Holmes was at all relevant times a sworn peace officer and the chief of police for the Village of Robbins acting under color of state law.

5. Defendant Carl Scott was at all relevant times a sworn

member of the Robbins police department acting under color of state law.

6. Defendant Dion Kimble at all relevant times was a sworn member of the Robbins police department acting under color of state law.

7. Defendant Anthony Hosey at all relevant times was a sworn member of the Robbins police department acting under color of state law.

8. Defendant Tyrus Lester at all relevant times was a sworn member of the Robbins police department acting under color of state law.

FACTS

9. On December 16, 1999 at or about 10:00 p.m., Brian Morris, James Harris, Gentile Tabor and Marcus Washington were inside an automobile which was parked at or near the east side of Grace Street at or near its intersection with 139th Street, Robbins, Illinois.

10. At said time and location, Officers Scott, Kimble, Hosey, and Lester were in a Village of Robbins police vehicle.

11. At said time and location, the police vehicle stopped, and Scott, Kimble, Hosey, and Lester exited the vehicle, with their weapons drawn, and ran towards the Plaintiffs' car.

12. Plaintiffs Harris, Morris, Tabor, and Washington had not violated any city, state, or federal laws.

13. The defendant police officers had no reason to believe that Plaintiffs Harris, Morris, Tabor, and Washington had violated or were about to violate any city, state, or federal laws.

14. As Officer Scott approached, he fired his weapon at the car containing the Plaintiffs.

15. The bullet from Officer Scott's gun shattered the front passenger side window and struck Plaintiff Morris.

16. Defendants subsequently arrested Plaintiffs Morris, Harris, and Tabor.

17. Defendant Scott signed a criminal complaint against Plaintiffs Harris and Tabor alleging aggravated assault.

18. Defendant Scott signed a criminal complaint against Plaintiff Morris for reckless driving.

19. The State's Attorney's Office for Cook County dismissed the aggravated assault case against Tabor, dismissed the aggravated assault charge against Harris, and dismissed the reckless driving charge against Morris.

COUNT I

VILLAGE OF ROBBINS

20. The Plaintiffs repeat and reallege Paragraphs 1 through 19 and incorporate them into Count I.

21. That the Defendant Village of Robbins has officially sanctioned, approved or authorized unconstitutional policies instituted by Defendant's police department.

22. Defendant Village of Robbins, through its policies, practices and customs, has caused the Plaintiffs to suffer unconstitutional deprivation of liberty and the equal protection of the laws and has thereby exhibited deliberate indifference toward Plaintiffs in regard to failing to supervise and train its employees.

23. That at all times herein the Defendant Village of Robbins had actual knowledge that the defendant officers were not properly trained. The Village knew that its officers were using unjustified deadly force during the course of their employment, that its officers made arrests without probable cause, and that its officers filed false criminal charges against its citizens.

24. The Defendant Village knew that the Defendant Officers used unjustified deadly force against Plaintiff Brian Morris.

25. The Defendant Village knew that the Defendant officers without probable cause surrounded and later chased Plaintiffs.

26. The Defendant Village knew that the Defendant Officers without probable cause arrested and filed false charges against Plaintiffs Morris, Tabor, and Harris.

WHEREFORE the Plaintiffs asks for judgment in their favor for compensatory damages to cover the Plaintiffs' medical expenses, physical and mental injury, and time in custody. Because the Defendant acted willfully, wantonly or with gross recklessness, the Plaintiffs are seeking punitive damages. The Plaintiffs are also seeking costs and attorney's fees.

COUNT II

JOHNNY HOLMES

27. The Plaintiffs repeat and reallege Paragraphs 1 through 19 and incorporate them into Count II.

28. That the Defendant Johnny Holmes officially sanctioned, ordered, approved or authorized unconstitutional policies, customs or usages employed by Officers Kimble, Hosey, Lester, and Scott.

29. Defendant Johnny Holmes, through his policies, practices and customs, has caused the Plaintiffs to suffer unconstitutional deprivation of liberty and the equal protection of the laws and has thereby exhibited deliberate indifference toward Plaintiffs by failing to supervise and train his officer employees.

30. That at all times herein the Defendant Johnny Holmes had actual knowledge that the defendant officers were not properly trained and using unjustified deadly force during the course of their employment.

31. The Defendant Holmes knew that the Defendant Officers used unjustified deadly force against Plaintiff Brian Morris.

32. The Defendant Holmes knew that the Defendant Officers without probable cause surrounded and later chased Plaintiffs.

33. The Defendant Holmes knew that the Defendant Officers without probable cause arrested and filed false charges against Plaintiffs Morris, Tabor, and Harris.

WHEREFORE the Plaintiffs ask for judgment in their favor for compensatory damages to cover the Plaintiffs' medical expenses, physical and mental injury, and time in custody. Because the Defendant acted willfully, wantonly or with gross recklessness, the Plaintiffs are seeking punitive damages. The Plaintiffs are also seeking costs and attorney's fees.

COUNT III

SCOTT, KIMBLE, HOSEY, LESTER

34. The Plaintiffs repeat and reallege Paragraphs 1 through 19 and incorporate them into Count III.

35. The Defendants used unjustified deadly force against Plaintiff Brian Morris.

36. The Defendants without probable cause surrounded and later chased Plaintiffs.

37. The Defendants without probable cause arrested and filed false charges against Plaintiffs Morris, Tabor, and Harris.

38. At the time of the aforesaid events, the Defendants Scott, Kimble, Hosey, and Lester acted under color of law and their acts constituted a violation of the Plaintiffs' rights under the Fourth and Fourteenth Amendments to the United States Constitution by depriving the Plaintiffs of their rights to be free from excessive force and arrest without probable cause.

39. As a direct and proximate result of the foregoing, the Plaintiff Morris was caused to sustain serious bodily injury,

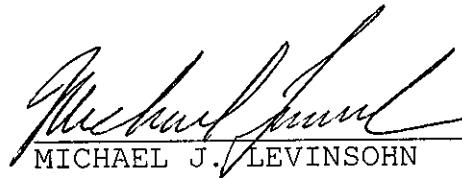
permanent disfigurement, emotional distress, humiliation, suffering, and other damages.

40. As a direct and proximate result of the foregoing, the Plaintiffs Harris, Tabor, and Washington suffered humiliation, injury, emotional distress, and other damages.

WHEREFORE the Plaintiffs asks for judgment in their favor for compensatory damages to cover Plaintiffs' medical expenses, physical and mental injury, and time in custody. Because the Defendants acted willfully, wantonly or with gross recklessness, the Plaintiffs are seeking punitive damages. The Plaintiffs are also seeking costs and attorney's fees.

PLAINTIFFS DEMAND A JURY TRIAL.

Respectfully submitted,



MICHAEL J. LEVINSOHN

MICHAEL J. LEVINSOHN
MICHAEL G. HOLZMAN
TIMOTHY M. GRACE
HOLZMAN & LEVINSOHN
53 W. Jackson Blvd.,
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Chicago, IL 60604
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JS 44
(Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS BRIAN MORRIS, JAMES HARRIS
GENTILE TABOR, AND MARCUS WASHINGTON

DEFENDANTS VILLAGE OF ROBBINS,
JOHNNY HOLMES, CARL SCOTT, DION KIMBLE
ANTHONY HOSEY, TYRUS LESTER

JUDGE MANNIN

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

DOCKETED

AUG 31 2001

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Cook

(IN U.S. PLAINTIFF CASES ONLY)

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Holzman & Levinsohn
53 W. Jackson Blvd. Suite 1350
Chicago, Illinois 60604
312 427 2163

01C 6799
MAGISTRATE JUDGE LEVIN

CLERK CO
DISTRICT CO
FILED EDA
AUG 30 PM 1:

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation

Appeal to District Judge from
Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3410
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	<input type="checkbox"/> 691 Agricultural Acts <input type="checkbox"/> 692 Economic Stabilization <input type="checkbox"/> 693 Environmental Matters <input type="checkbox"/> 694 Energy Allocation Act <input type="checkbox"/> 695 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 260 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 446 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 781 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWCA/DIWRA (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7600

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. § 1983; excessive force, unlawful arrest, detention without probable cause

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: YES

VIII. This case

is not a refiling of a previously dismissed action.

is a refiling of case number _____, previously dismissed by Judge _____

DATE

August 30, 2001

SIGNATURE OF ATTORNEY OR RECORD

Michael J. Fennell

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

DOCKETED

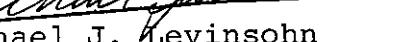
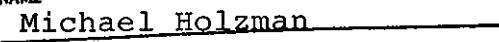
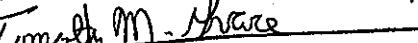
AUG 31 2001

n the Matter of
BRIAN MORRIS, et.al.,
Plaintiffs,

vs.
VILLAGE OF ROBBINS et.al.,
Defendants

Defendants
APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR: JUDGE MANNING

~~Brian Morris, James Harris, Gentile Tabor, and Marcus Washington --
Plaintiffs~~

(A)		(B)	
<p>SIGNATURE </p> <p>NAME Michael J. Levinsohn</p> <p>FIRM Holzman & Levinsohn</p> <p>STREET ADDRESS 53 W. Jackson Blvd., Suite 1350</p> <p>CITY/STATE/ZIP Chicago, IL 60604</p> <p>TELEPHONE NUMBER 312 427-2163</p> <p>FAX NUMBER 312 922-0066</p> <p>E-MAIL ADDRESS</p> <p>IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6225452</p>		<p>SIGNATURE </p> <p>NAME Michael Holzman</p> <p>FIRM Same as "A"</p> <p>STREET ADDRESS</p> <p>CITY/STATE/ZIP</p> <p>TELEPHONE NUMBER</p> <p>FAX NUMBER</p> <p>E-MAIL ADDRESS</p> <p>IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6201313</p> <p>MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p>TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p>DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/></p>	
(C)		(D)	
<p>SIGNATURE </p> <p>NAME Timothy M. Grace</p> <p>FIRM Same as "A"</p> <p>STREET ADDRESS</p> <p>CITY/STATE/ZIP</p> <p>TELEPHONE NUMBER</p> <p>FAX NUMBER</p> <p>E-MAIL ADDRESS</p> <p>IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6237204</p>		<p>SIGNATURE</p> <p>NAME</p> <p>FIRM</p> <p>STREET ADDRESS</p> <p>CITY/STATE/ZIP</p> <p>TELEPHONE NUMBER</p> <p>FAX NUMBER</p> <p>E-MAIL ADDRESS</p> <p>IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)</p> <p>MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/></p> <p>TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p>DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/></p>	
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